



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 211122-0241]

RTID 0648-XX073

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2022 and Projected 2023 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes Atlantic bluefish specifications for the 2022 fishing year, and projected specifications for fishing year 2023, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to establish allowable harvest levels to prevent overfishing while enabling optimum yield, using the best scientific information available. This rule also informs the public of the proposed fishery specifications and provides an opportunity for comment.

DATES: Comments must be received by *[insert date 15 days after date of publication in the **FEDERAL REGISTER**]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2021-0107, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov>, and enter “NOAA-NMFS-2021-0107” in the Search box;
2. Click the “Comment” icon, complete the required fields; and

3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). If you are unable to submit your comment through www.regulations.gov, contact Cynthia Ferrio, Fishery Policy Analyst, Cynthia.Ferrio@noaa.gov.

The Mid-Atlantic Fishery Management Council prepared a draft environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives. The EA also provides an economic analysis, as well as an analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. Copies of the specifications document, including the EA and information on the economic impacts of the proposed measures, are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of an acceptable biological catch (ABC), commercial and recreational annual catch limits (ACL), commercial and recreational annual catch targets (ACT), a commercial quota, a recreational harvest limit (RHL), and any other management measures, for up to three years at a time. This action proposes bluefish catch limit specifications for the 2022 fishing year, and projects specifications for 2023, based on Council and Commission recommendations.

These proposed specifications are based on a 2021 assessment update and the recent Amendment 7 to the Bluefish FMP, as well as recommendations from the Council's Scientific and Statistical Committee (SSC) and the Bluefish Monitoring Committee. Amendment 7 was adopted by the Council and Commission in early June 2021, and the final rule published on November 24, 2021, 86 FR 66977. This amendment would implement management measures that affect these proposed specifications, including a rebuilding plan and reallocation of annual quotas between fishery sectors and among states. These proposed specifications were developed based on Amendment 7 measures, and these specifications would implement the first year of the rebuilding plan as well as begin the phasing in of the reallocation of commercial quota to the states in 2022.

There was a 3.65 million-lb (1,656-mt) overage of the fishery ACL caused by recreational catch in 2020. Because the bluefish fishery is overfished, the accountability measure (AM) required by the FMP at 50 CFR 648.163(d)(1) is a pound-for-pound payback of the overage against the soonest possible year's recreational ACT as a single-year adjustment. The 2020 overage AM would therefore be applied to the 2022 specifications under this proposed action. No sector transfer is allowed through these specifications because the stock is still overfished and new sector transfer provisions of

Amendment 7 do not allow transfer in this situation. No changes are proposed to recreational management measures because the expected recreational landings under the existing measures are very close to fully achieving the proposed RHL.

Proposed Specifications

This action proposes the Council’s recommendations for 2022 and projected 2023 bluefish catch specifications, which are consistent with the SSC and Monitoring Committee recommendations (Table 1). These proposed specifications would increase the fishery ABC by about 55 percent in 2022, and by 21 percent the following year in 2023. The commercial quota and RHL are also proposed to increase by 28 percent and 67 percent in 2022, respectively, and again by 21 percent and 59 percent in 2023.

Table 1 -- Comparison of 2021, Proposed 2022, and Projected 2023 Bluefish Specifications*

	2021		2022 (Proposed)		2023 (Projected)	
	Million lb	Metric tons	Million lb	Metric tons	Million lb	Metric tons
Overfishing Limit	32.98	17,228	40.56	18,399	45.17	20,490
ABC = Fishery ACL	16.28	7,385	25.26	11,460	30.62	13,890
Commercial ACL = Commercial ACT	2.77	1,255	3.54	1,604	4.29	1,945
Recreational ACL = Recreational ACT	13.51	6,130	21.73	9,856	26.34	11,945
Recreational Accountability Measures	0	0	3.65	1,656	0	0
Commercial Total Allowable Landings (TAL)	2.77	1,255	3.54	1,604	4.29	1,945
Recreational TAL	8.34	3,785	13.89	6,298	22.14	10,044
Sector Transfer	0	0	0	0	0	0
Commercial Quota	2.77	1,255	3.54	1,604	4.29	1,945
RHL	8.34	3,785	13.89	6,298	22.14	10,044

*Specifications are derived from the ABC in metric tons (mt). When values are converted to millions of pounds the numbers may slightly shift due to rounding. The conversion factor used is 1 mt = 2204.6226 lb.

Table 2 provides the proposed commercial state allocations based on the Council-recommended coastwide commercial quotas for 2022 and 2023, and the phased-in changes to the percent share allocations to the states specified in Amendment 7. No states exceeded their allocated quota in 2020, or are projected to do so in 2021; therefore, no

accountability measures for the commercial fishery are required for the 2022 fishing year at this time.

Table 2 -- Proposed 2022 and Projected 2023 Bluefish State Commercial Quota

Allocations

	2022 (Proposed)			2023 (Projected)		
State	Percent Share	Quota (lb)	Quota (kg)	Percent Share	Quota (lb)	Quota (kg)
Maine	0.59	20,819	9,443	0.51	21,807	9,892
New Hampshire	0.39	13,655	6,194	0.36	15,331	6,954
Massachusetts	7.20	254,748	115,552	7.69	329,578	149,494
Rhode Island	7.21	254,956	115,646	7.61	326,165	147,946
Connecticut	1.24	43,885	19,906	1.22	52,094	23,629
New York	11.72	414,693	188,102	13.06	560,031	254,026
New Jersey	14.68	519,158	235,486	14.54	623,295	282,722
Delaware	1.68	59,442	26,962	1.48	63,572	28,836
Maryland	2.85	100,698	45,676	2.69	115,409	52,349
Virginia	11.02	389,802	176,811	10.16	435,625	197,596
North Carolina	32.06	1,133,855	514,308	32.05	1,374,077	623,271
South Carolina	0.04	1,590	721	0.05	2,344	1,063
Georgia	0.02	805	365	0.04	1,544	700
Florida	9.31	329,137	149,294	8.55	366,585	166,280
Total	100.00	3,537,096	1,604,400	100.01	4,287,109	1,944,600

As previously mentioned, no changes to the recreational management measures are proposed in this action, as the expected recreational landings of 13.58 million lb (6,160 mt) under the existing measures are likely to achieve the proposed RHL. All other federal management measures would also remain unchanged under this action.

The projected specifications for 2023 are based on the available data and the second year of the rebuilding plan model. However, there is a research track stock assessment scheduled for bluefish in 2022. The Council will review the projected 2023 specifications in light of any new information, including this assessment, to determine if changes need to be made prior to their implementation. NMFS will publish a notice prior to the 2023 fishing year to confirm these limits as projected or announce any necessary changes.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with an EA. There are no proposed regulatory changes in this bluefish action, so none are considered in the evaluation. The proposed specifications would increase bluefish catch limits in both 2022 and 2023 compared to 2021 to allow greater operational flexibility in the fishery, while still adhering to the rebuilding plan implemented by Amendment 7. This action would also incorporate the quota reallocation changes implemented by Amendment 7, allocating 86 percent of the ACL to the recreational sector and 14 percent to the commercial sector, as well as beginning the 7-year phased-in reallocation of commercial quota among the states in 2022.

This action would affect entities that participate in commercial bluefish fishing (those that hold commercial bluefish permits), and those with federal for-hire (party/charter) recreational fishing permits for bluefish. Vessels may hold multiple fishing permits and some entities own multiple vessels and/or permits. According to the

Northeast Fisheries Science Center commercial ownership database, 526 affiliate firms landed bluefish during the 2018-2020 period (the most recent and complete data available), with 521 of those commercial entities categorized as small businesses and 5 categorized as large businesses. For the recreational for-hire fishery, 361 for-hire affiliate firms generated revenues from recreational fishing for various species during 2018-2020. All of those business affiliates are categorized as small businesses, but it is not possible to derive the proportion of overall revenues for these for-hire firms resulting from fishing activities for an individual species such as bluefish. Nevertheless, given the popularity of bluefish as a recreational species in the Mid-Atlantic and New England, it is likely that revenues generated from bluefish may be somewhat important for many of these firms at certain times of the year.

Overall, proposed specifications for 2022 and projected specifications for 2023 are expected to provide similar fishing opportunities when compared to the 2021 fishing year. Although these catch limits are increasing, there are no proposed changes to other management measures, such as recreational bag limits, that are likely to change fishing behavior. Entities issued a commercial bluefish permit may experience a slight positive impact related to potentially higher landings throughout the course of the entire year. However, because state allocations are changing, there might be different amounts of quota available regionally compared to past years. Often, fishing behavior and short term landings are based on market conditions, which are not expected to substantially change as a result of these specifications. As such, the proposed action is not expected to have an impact on the way the fishery operates or the revenue of small entities. Overall, analyses indicate that the proposed specifications will not substantially change: fishing effort, the risk of overfishing, prices/revenues, or fishery behavior. Additionally, this action will not have a significant impact on small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 23, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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